* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P. (Crl.) No. 930/2007
% DATE OF DECISION: 14th August 2007

\# COURT ON ITS OWN MOTION

! versus

$ STATE & ANR. ..... Respondent
^ Through: Mr. Rajat Katyal, Proxy counsel
for Ms. Mukta Gupta, Advocate for the State.
Ms. Meenakshi Arora, Advocate for NHRC.
Ms. Barkha Gupta, M.M. Rohini in person

* **CORAM:**
HON'BLE MR. JUSTICE R.S. SODHI
HON'BLE MR. JUSTICE B.N.CHATURVEDI

1. Whether the Reporters of local papers may be allowed to see the judgment? Yes

2. To be referred to the Reporter or not? Yes

3. Whether the judgment should be reported in the Digest? Yes

: <u>R.S. SODHI, J. (Oral)</u>

W.P. (Crl.) No. 930/2007 was initiated on a complaint received by this Court, which was forwarded to this bench. The communication revealed instance of insensitivity on the part of various authorities while dealing the case of a child subjected to sexual abuse. On the previous date we had requested the Human Rights Commission as also the Metropolitan Magistrate dealing with concerned case to assist this Court to enable it to lay down some guidelines which would facilitate the concerned authorities to take appropriate measures. Today, the National Human Rights Commission and Ms. Mukta Gupta, for the State as also Ms. Barkha Gupta, learned Metropolitan Magistrate have filed suggestions.

We have carefully gone through the suggested guidelines and heard Ms. Meenakshi Arora as also learned Metropolitan Magistrate Ms.

Barkha Gupta.

The children by reason of their physical and mental status need special safeguards and care. Child victims of sexual abuse are to be treated with compassion and dignity. All concerned associated with Criminal Justice System need to be sensitized about their protective role to prevent further victimisation of child victims. To secure this end it is rendered imperative to lay down certain guidelines, which we do and direct as follows :-

POLICE

1. On a complaint of a congnizable offence involving a child victim being made, concerned police officer shall record the complaint promptly and accurately.
2. The investigation of the case shall be referred to an officer not below the rank of Sub-Inspector, preferably a lady officer, sensitized by imparting appropriate training to deal with child victims of sexual crime.
3. The statement of the victim shall be recorded verbatim.
4. The officer recording the statement of the child victim should not be in police uniform.
5. The statement of the child victim shall be recorded at the residence of the victim or at any other place where the victim can make a statement freely without fear.
6. The statement should be recorded promptly without any loss of time.
7. The parents of the child or any other person in whom the child reposes trust and confidence will be allowed to remain present.
8. The Investigating Officer to ensure that at no point should the child victim come in contact with the accused.

9. The child victim shall not be kept in the police station overnight on any pretext, whatsoever, including medical examination.
10. The Investigating Officer recording the statement of the child victim shall ensure that the victim is made comfortable before proceeding to record the statement and that the statement carries accurate narration of the incident covering all relevant aspects of the case.
11. In the event the Investigating Officer should so feel the necessity, he may take the assistance of a psychiatrist.
12. The Investigating Officer shall ensure that the child victim is medically examined at the earliest preferably within twenty four hours (in accordance with Section 164-A Cr.P.C) at the nearest government hospital or hospital recognized by the government.
13. The Investigating Officer shall ensure that the investigating team visits the site of the crime at the earliest to secure and collect all incriminating evidence available.
14. The Investigating Officer shall promptly refer for forensic examination clothings and articles necessary to be examined, to the forensic laboratory which shall deal with such cases on priority basis to make its report available at an early date.
15. The investigation of the cases involving sexually abused child may be investigated on a priority basis and completed preferably within ninety days of the registration of the case. The investigation shall be periodically supervised by senior officer/s.
16. The Investigating Officer shall ensure that the identity of the child victim is protected from publicity.

MEDICAL EXAMINATION

1. In case of a girl child victim the medical examination shall be

conducted preferably by a female doctor.

2. In so far as it may be practical, psychiatrist help be made available to the child victim before medical examination at the hospital itself.
3. The report should be prepared expeditiously and signed by the doctor conducting the examination and a copy of medical report be provided to the parents/guardian of the child victim.
4. In the event results of examination are likely to be delayed, the same should be clearly mentioned in the medical report.
5. The parents/guardian/person in whom child have trust should be allowed to be present during the medical examination.
6. Emergency medical treatment wherever necessary should be provided to the child victim.
7. The child victim shall be afforded prophylactic medical treatment against STDs.
8. In the event the child victim is brought to a private/nursing home, the child shall be afforded immediate medical attention and the matter be reported to the nearest police station.

RECORDING OF STATEMENT BEFORE MAGISTRATE

1. The statement of the child victim shall be recorded promptly and at the earliest by the concerned Magistrate and any adjournment shall be avoided and in case the same is unavoidable, reasons to be recorded in writing.
2. In the event of the child victim being in the hospital, the concerned Magistrate shall record the statement of the victim in the hospital.
3. To create a child friendly environment separate rooms be provided within the Court precincts where the statement of the child victim can be recorded.

4. The child victim shall not be separated from his/her parents/guardians nor taken out from his/her environment on the ground of “Ascertaining voluntary nature of statement” unless the parents/guardian is reported to be abusive or the Magistrate thinks it appropriate in the interest of justice.
5. Wherever possible, the IO shall ensure that the statement of the child victim is also video recorded.
6. No Court shall detain a child in an institution meant for adults.

TRIAL COURT

1. It shall be endeavor of the Court to create a child friendly atmosphere while conducting its proceedings in respect of a sexually abused child.
2. Proceedings shall be conducted in camera and appropriate measures taken to ensure that the child victim is not confronted with the accused and the directions in this regard given by the Supreme Court in **2004 (5) SCC 518 'Sakshi vs. Union of India'** are enforced.
3. Wherever possible the Court may resort to the recording of statement through video conferencing.
4. The Court may, if it so thinks fit, direct that the questions to be put by the accused in cross-examination to the child victim be given in writing to the Presiding Officer of the Court, who may in turn put the same to the victim in a language which is neither embarrassing nor confusing.
5. The Committal Court shall commit such cases to the Court of Sessions preferably within fifteen days after the filing of the chargesheet.

6. The concerned authorities are directed to inform themselves of the guidelines laid down by the Supreme Court in **1995 (1) SCC 14 'Delhi Domestic Working Women's Forum vs. Union of India & Ors.', 1996 (2) SCC 384 'State of Punjab vs. Gurmit Singh & Ors.' as also 2004 (5) SCC 518 'Sakshi vs. Union of India & Ors'.**

The above directions be promptly circulated to all concerned and put into practice to ensure that justice to the child victim does not suffer.

The petition is accordingly disposed of.

R.S. SODHI, J.

B.N.CHATURVEDI, J.

AUGUST 14, 2007
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